

BEFORE THE
BOARD OF REGISTERED NURSING
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Statement of Issues Against:

DANA MICHELLE MYERSON

Case No. 2012-319

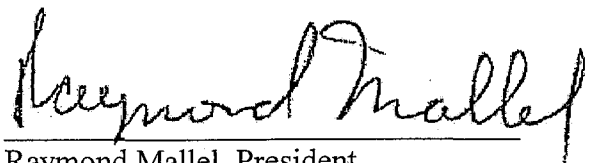
Applicant/Respondent

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary order for Public Reproval is hereby adopted by the Board of Registered Nursing, Department of Consumer Affairs, as its Decision in this matter.

This Decision shall become effective on **October 19, 2012.**

IT IS SO ORDERED **September 21, 2012.**



Raymond Mallel, President
Board of Registered Nursing
Department of Consumer Affairs
State of California

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
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Attorneys for Complainant

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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues Against:

Case No. 2012-319

13 **DANA MICHELLE MYERSON**
85 Fortuna Avenue
14 San Francisco, CA 94115

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER FOR
PUBLIC REPROVAL**

15 Applicant/Respondent.

[Bus. & Prof. Code § 495]

16 In the interest of a prompt and speedy settlement of this matter, consistent with the public
17 interest and the responsibility of the Board of Registered Nursing of the Department of Consumer
18 Affairs, the parties hereby agree to the following Stipulated Settlement and Disciplinary Order for
19 Public Reproval which will be submitted to the Board for approval and adoption as the final
20 disposition of the Statement of Issues.

21 **PARTIES**

22 1. LOUISE R. BAILEY, M.ED., RN (Complainant), is the Interim Executive Officer of
23 the Board of Registered Nursing (Board), Department of Consumer Affairs. She brought this
24 action solely in her official capacity and is represented in this matter by Kamala D. Harris,
25 Attorney General of the State of California, by Leslie E. Brast, Deputy Attorney General.

26 2. Respondent Dana Michelle Myerson (Respondent) is represented in this proceeding
27 by attorney Sharon Barclay Kime, whose address is 655 Redwood Highway, Suite 250, Mill
28 Valley, CA 94941.

1 3. On or about July 5, 2011, the Board received from Respondent an application for
2 licensure by examination dated June 30, 2011. The Board denied the application on August 17,
3 2011.

4 JURISDICTION

5 4. Statement of Issues No. 2012-319 was filed before the Board on November 22, 2011,
6 and is currently pending against Respondent. The Statement of Issues and all other statutorily
7 required documents were properly served on Respondent on December 8, 2011. Respondent
8 timely filed her Notice of Defense contesting the Statement of Issues. A copy of Statement of
9 Issues No. 2012-319 is attached as **Exhibit A** and incorporated herein by reference.

10 ADVISEMENT AND WAIVERS

11 5. Respondent has carefully read, fully discussed with counsel, and understands the
12 charges and allegations in Statement of Issues No. 2012-319. Respondent has also carefully read,
13 fully discussed with counsel, and understands the effects of this Stipulated Settlement and
14 Disciplinary Order for Public Reproval.

15 6. Respondent is fully aware of her legal rights in this matter, including the right to a
16 hearing on the charges and allegations in the Statement of Issues; the right to be represented by
17 counsel at her own expense; the right to confront and cross-examine the witnesses against her; the
18 right to present evidence and to testify on her own behalf; the right to the issuance of subpoenas
19 to compel the attendance of witnesses and the production of documents; the right to
20 reconsideration and court review of an adverse decision; and all other rights accorded by the
21 California Administrative Procedure Act and other applicable laws.

22 7. Respondent voluntarily, knowingly, and intelligently waives and gives up each and
23 every right set forth above.

24 CULPABILITY

25 8. Respondent admits the First and Second Causes for Discipline as set forth in
26 Statement of Issues No. 2012-319, except that her conviction in Pennsylvania was based on just
27 two counts for: 1) an accident involving personal injury; and 2) for driving under the influence of
28 alcohol. These amounted to a simple DUI with minor personal injury and damage to the vehicle.

9. Respondent agrees that, upon issuance, her registered nurse license is subject to discipline and she agrees to be bound by the Board's Disciplinary Order below.

CONTINGENCY

10. This stipulation shall be subject to approval by the Board of Registered Nursing. Respondent understands and agrees that counsel for Complainant and Board staff may communicate directly with the Board regarding this stipulation and settlement, without notice to or participation by Respondent or her counsel. By signing the stipulation, Respondent understands and agrees that she may not withdraw her agreement or seek to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary Order for Public Reprimand shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal action between the parties, and the Board shall not be disqualified from further action by having considered this matter.

11. The parties understand and agree that facsimile copies of this Stipulated Settlement and Disciplinary Order for Public Reprimand, including facsimile signatures thereto, shall have the same force and effect as the originals.

12. This Stipulated Settlement and Disciplinary Order for Public Reproval is intended by the parties to be an integrated writing representing the complete, final, and exclusive embodiment of their agreement. It supersedes any and all prior or contemporaneous agreements, understandings, discussions, negotiations, and commitments (written or oral). This Stipulated Settlement and Disciplinary Order for Public Reproval may not be altered, amended, modified, supplemented, or otherwise changed except by a writing executed by an authorized representative of each of the parties.

13. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

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Dated:

KAMALA D. HARRIS
Attorney General of California
FRANK H. PACOE
Supervising Deputy Attorney General

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Exhibit A

Statement of Issues No. 2012-319

1 KAMALA D. HARRIS
Attorney General of California
2 FRANK H. PACOE
Supervising Deputy Attorney General
3 LESLIE E. BRAST
Deputy Attorney General
4 State Bar No. 203296
455 Golden Gate Avenue, Suite 11000
5 San Francisco, CA 94102-7004
Telephone: (415) 703-5548
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8 **BEFORE THE**
9 **BOARD OF REGISTERED NURSING**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues Against:

Case No. **2012-319**

13 **DANA MICHELLE MYERSON**
85 Fortuna Avenue
14 San Francisco, CA 94115

STATEMENT OF ISSUES

15
16 Applicant/Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN (Complainant), brings this Statement of Issues solely in
20 her official capacity as the Executive Officer of the Board of Registered Nursing, Department of
Consumer Affairs (Board).

21 2. On or about July 5, 2011, the Board received an application for licensure by
22 examination from Dana Michelle Myerson (Respondent). On or about June 30, 2011,
23 Respondent certified under penalty of perjury to the truthfulness of all statements, answers, and
24 representations in the application. The Board denied the application on August 17, 2011.

25 **JURISDICTION**

26 3. This Statement of Issues is brought before the Board under the authority of the
27 following laws. All section references are to the Business and Professions Code (Code) unless
28 otherwise indicated.

1 4. Code section 2736 provides, in pertinent part, that the Board may deny a license when
2 it finds that the applicant has committed any acts constituting grounds for denial of licensure
3 under Code section 480.

4 5. Code section 480 states:

5 “(a) A board may deny a license regulated by this code on the grounds that the applicant
6 has one of the following:

7 “(1) Been convicted of a crime. A conviction within the meaning of this section means a
8 plea or verdict of guilty or a conviction following a plea of nolo contendere. Any action that a
9 board is permitted to take following the establishment of a conviction may be taken when the
10 time for appeal has elapsed, or the judgment of conviction has been affirmed on appeal, or when
11 an order granting probation is made suspending the imposition of sentence, irrespective of a
12 subsequent order under the provisions of Section 1203.4 of the Penal Code.

13 “...

14 “(3) (A) Done any act that if done by a licentiate of the business or profession in question,
15 would be grounds for suspension or revocation of license.

16 “(B) The board may deny a license pursuant to this subdivision only if the crime or act is
17 substantially related to the qualifications, functions, or duties of the business or profession for
18 which application is made. . .”

19 6. Code section 2761 states:

20 “The board may take disciplinary action against a certified or licensed nurse or deny an
21 application for a certificate or license for any of the following:

22 “(a) Unprofessional conduct, which includes, but is not limited to, the following:

23 “...

24 “(f) Conviction of a felony or of any offense substantially related to the qualifications,
25 functions, and duties of a registered nurse, in which event the record of the conviction shall be
26 conclusive evidence thereof. . .”

27 ///

28 ///

1 7. Code section 2762 states:

2 “In addition to other acts constituting unprofessional conduct within the meaning of this
3 chapter [the Nursing Practice Act], it is unprofessional conduct for a person licensed under this
4 chapter to do any of the following:

5 “ . . .

6 “(b) Use any controlled substance as defined in Division 10 (commencing with Section
7 11000) of the Health and Safety Code, or any dangerous drug or dangerous device as defined in
8 Section 4022, or alcoholic beverages, to an extent or in a manner dangerous or injurious to
9 himself or herself, any other person, or the public or to the extent that such use impairs his or her
10 ability to conduct with safety to the public the practice authorized by his or her license.

11 “(c) Be convicted of a criminal offense involving the prescription, consumption, or
12 self-administration of any of the substances described in subdivisions (a) and (b) of this section,
13 or the possession of, or falsification of a record pertaining to, the substances described in
14 subdivision (a) of this section, in which event the record of the conviction is conclusive evidence
15 thereof. . .”

16 8. California Code of Regulations, title 16, section 1444, states in pertinent part:

17 “A conviction or act shall be considered to be substantially related to the qualifications,
18 functions or duties of a registered nurse if to a substantial degree it evidences the present or
19 potential unfitness of a registered nurse to practice in a manner consistent with the public health,
20 safety, or welfare. . .”

21 FIRST CAUSE FOR DENIAL OF APPLICATION

22 (Substantially Related Crime)

23 9. Respondent’s application is subject to denial pursuant to Code sections 2736 and
24 480(a)(1) for conviction of a crime substantially related to the qualifications, functions, or duties
25 of a registered nurse, as follows:

26 10. On or about October 29, 2004, in the Court of Common Pleas of Centre County,
27 Pennsylvania, Criminal Division Case No. 2004-1659, Respondent pled guilty to and was
28 convicted of hit and run involving personal injury [violation of 75 Pa.C.S.A. § 3742(a)], and

1 driving under the influence of alcohol with a BAC of .016 percent or higher [violation of 75
2 Pa.C.S.A. § 3802(c)]. The convictions arose from Respondent's August 8, 2004 arrest for driving
3 under the influence of alcohol with a .228 percent BAC, striking another vehicle injuring the
4 passengers, and leaving the scene of the collision.

5 SECOND CAUSE FOR DENIAL OF APPLICATION

6 (Act that if Done by Licensee Would be Grounds for Discipline)

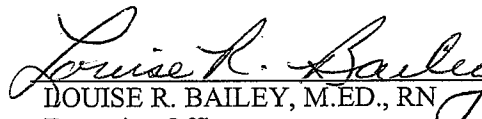
7 11. Respondent's application is subject to denial pursuant to Code sections 2736 and
8 480(a)(3)(A) in that, if she was licensed as a registered nurse, Respondent's act or acts, as set
9 forth in paragraph 10, would be grounds for license suspension or revocation as unprofessional
10 conduct pursuant to Code sections 2761(a), 2761(f), 2762(b), and/or 2762(c).

11 PRAYER

12 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
13 and that following the hearing, the Board of Registered Nursing issue a decision:

- 14 1. Denying the application of Dana Michelle Myerson for licensure by examination;
15 2. Taking such other and further action as deemed necessary and proper.

16 DATED: November 22, 2011

17 
18 LOUISE R. BAILEY, M.ED., RN
19 Executive Officer
20 Board of Registered Nursing
21 Department of Consumer Affairs
22 State of California
23 Complainant

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Exhibit B

Letter of Public Reproval in Case No. 2012-319



STATE AND CONSUMER SERVICES AGENCY • GOVERNOR EDMUND G. BROWN JR.

Board of Registered Nursing
P O Box 944210, Sacramento, CA 94244-2100
P (916) 322-3350 | www.rn.ca.gov
Louise R. Bailey, M.ED., RN, Executive Officer



September 21, 2012

Dana Michelle Myerson
85 Fortuna Ave
San Francisco, CA 94115

RE: LETTER OF PUBLIC REPROVAL
In the Matter of the Statement of Issues Against:
Dana Michelle Myerson

Dear Ms. Myerson:

On November 22, 2011, the Board of Registered Nursing, Department of Consumer Affairs, State of California, filed a Statement of Issues against you following denial of your application for licensure by exam as a registered nurse. The Statement of Issues alleged that your application was subject to denial pursuant to Business and Professions Code sections 2736 and 480 for 1) conviction of a crime substantially related to the qualifications, functions or duties of a registered nurse; and 2) an act that would have been grounds for discipline if committed by a registered nurse. The allegations arose from your October 2004 alcohol-related convictions in the State of Pennsylvania following your arrest on or about August 8, 2004, for driving under the influence of alcohol resulting in an injury accident.

Taking into consideration that the allegations in the Statement of Issues arise from a single incident of misconduct, that the incident occurred more than seven years ago, that you were a 21-year-old college student at the time, that you completed all court sentencing requirements and have not had any subsequent convictions, that you have since gone on to complete your BS in education, taught school, and earned your Masters of Science in Nursing, that you produced positive letters of support and recommendation, and that there are other mitigating circumstances in this case that support the determination that you are safe to practice as a registered nurse, the Board has decided that the charges warrant a public reproof.

Accordingly, in resolution of this matter under the authority provided pursuant to Business and Professions Code section 495, the Board of Registered Nursing issues this letter of public reproof.

Sincerely,

Louise R. Bailey, M.ED., RN
LOUISE R. BAILEY, M.ED., R.N.
Executive Officer
Board of Registered Nursing
Department of Consumer Affairs
State of California